

SCHEDULE 5

Assembly election rules

PART 4

Final proceedings in contested and uncontested elections

Declaration of result at a constituency election

62.—(1) At a contested constituency election, when the result of the poll has been ascertained, the constituency returning officer shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) return his name and, if a certificate has been received by the constituency returning officer issued by the registered nominating officer of one or more registered political parties under rule 5(1) or (3) in respect of the candidate, the name of the party or, as the case may be, parties to the Clerk in accordance with paragraph (4);
- (c) give public notice of—
 - (i) his name and, if applicable, the name of any registered political party referred to in paragraph (1)(b); and
 - (ii) the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers under rule 58(5).

(2) At an uncontested constituency election, the statement of persons nominated, in addition to showing the person standing nominated, shall also declare that person elected, and the constituency returning officer shall forthwith return his name and, if a certificate has been received by the constituency returning officer issued by the registered nominating officer of one or more registered political parties under rule 5(1) or (3) in respect of the candidate, the name of the party or, as the case may be, parties to the Clerk in accordance with paragraph (4).

(3) Where paragraph (1) or (2) applies at an Assembly general election, the constituency returning officer shall forthwith also notify the regional returning officer for the Assembly electoral region in which the Assembly constituency is situated as to—

- (a) the name of the candidate who has been returned; and
- (b) if applicable, the name of the registered political party or parties referred to in paragraph (1)(b), or as the case may be, paragraph (2) and for which party or parties the candidate is, for the purposes of ascertaining the result at that regional election, returned as the Assembly member for that constituency.

(4) For the purposes of paragraph (1)(b) and (2), the constituency returning officer shall return those names required to be returned by—

- (a) completing a certificate in form CR set out in English and Welsh in Schedule 10 declaring the candidate to be returned⁽¹⁾; and
- (b) delivering it, or causing it to be delivered, to the Clerk.

(1) By virtue of section 14(6) of the Government of Wales Act 2006, the term of office of an Assembly member begins when the Assembly member is declared to be returned. Paragraph 9 of Schedule 11 to the Government of Wales Act 2006 contains transitional provision in respect of the 2007 Assembly general election.

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(5) References to “the Clerk” in paragraphs (1), (2) and (4) and in rule 64 shall, in relation to the 2007 Assembly general election, include the Clerk to the Assembly constituted by the 1998 Act⁽²⁾.

(6) In this rule and in rule 63, references to “ascertaining the result” shall in relation to a contested regional election, mean—

- (a) calculating the electoral region figure of each individual candidate and of each registered political party standing nominated at that election; and
- (b) allocating the seats to the electoral region members for that region⁽³⁾,

and like terms shall be construed accordingly.

Ascertainment of results at a contested regional election

63.—(1) At a contested regional election, the regional returning officer shall make arrangements for ascertaining the results of the poll as soon as practicable after he has—

- (a) given the certification required by rule 61(2); and
- (b) subject to rule 74(1), received the notification required by rule 62(3) from each constituency returning officer for an Assembly constituency in the Assembly electoral region.

(2) At a contested regional election the regional returning officer shall give notice in writing to the election agents and to each constituency returning officer for an Assembly constituency in the Assembly electoral region for which the election is held of the place and time at which he will begin to ascertain the results of the poll (together with such other information as he considers appropriate).

(3) No person other than—

- (a) the regional returning officer and his clerks;
- (b) the individual and party list candidates and one other person chosen by each of them;
- (c) the election agents;
- (d) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act; and
- (e) the constituency returning officer for any Assembly constituency in the Assembly electoral region for which the election is held,

may be present at the proceedings on the ascertainment of the results, unless permitted by the regional returning officer to attend.

(4) A person not entitled to attend at the proceedings shall not be permitted to do so by the regional returning officer unless he—

- (a) is satisfied that the efficient ascertainment of the results will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(5) The regional returning officer shall give the election agents and candidates all such reasonable facilities for overseeing the proceedings and all such information with respect to them (including for satisfying themselves that the ascertainment of the result that he is required to make is accurate), as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

(6) The regional returning officer shall provisionally ascertain the results of the poll and notify that provisional ascertainment to such of the following persons who are present, namely—

(2) As to the Clerk to the National Assembly for Wales constituted by the Government of Wales Act 1998, see the post with that title held by a member of staff of that Assembly as provided for in its standing orders.

(3) As to the calculation of electoral region figures and allocation of seats for an Assembly electoral region, see sections 6 and 7 of the Government of Wales Act 1998 as amended by paragraph 6 of Schedule 11 to the Government of Wales Act 2006 in relation to the Assembly general election in 2007.

- (a) an individual candidate or his election agent; and
- (b) the election agent for a registered political party standing nominated or (in his absence) one of the candidates on the list submitted by that party.

(7) A person to whom notification under paragraph (6) has been given may require the regional returning officer to ascertain provisionally those results again but the regional returning officer may refuse to do so if in his opinion the request is unreasonable.

(8) No step shall be taken to complete the ascertainment of the result until the persons notified under paragraph (6) have been given a reasonable opportunity to exercise the right conferred under paragraph (7).

(9) Where the regional returning officer has provisionally ascertained the results again under paragraph (7), paragraphs (6), (7) and (8) and this paragraph shall apply to the further provisional ascertainment.

(10) If in ascertaining the results of the poll the regional returning officer is required to draw lots⁽⁴⁾, he shall allocate the seat to the individual candidate or party on whom the lot falls.

(11) The regional returning officer shall have completed ascertaining the results of the poll when following a provisional ascertainment—

- (a) there is no request under paragraph (7) for him to make a further provisional ascertainment; or
- (b) if there is such a request, the regional returning officer refuses to make a further provisional ascertainment.

(12) This paragraph applies where the regional returning officer is notified under rule 62(3) that a candidate who is returned as the Assembly member for a constituency is the candidate of more than one registered political party.

(13) In a case to which paragraph (12) applies, the regional returning officer shall, in calculating the electoral region figure of a registered political party named in the notification, include that candidate as a candidate of that party; and in doing so shall disregard the fact that, for the purposes of calculating the electoral region figure of another registered political party named in that notification, the candidate is also included as the candidate of that other registered political party.

Declaration of results at a regional election

64.—(1) After the regional returning officer has ascertained the results of the poll, he shall forthwith—

- (a) announce the individual candidates or the registered political parties to whom seats have been allocated (together with the names of the party list candidates who are to fill such seats);
- (b) declare those individual or party list candidates to have been elected;
- (c) return the names of those persons to the Clerk (and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate) in accordance with paragraph (3); and
- (d) give public notice—
 - (i) of the name of any individual candidate elected;
 - (ii) of the name of any party list candidate elected (and the name of the registered political party for which he was such a candidate);

(4) See section 7(9) of the Government of Wales Act 1998 in relation to the Assembly general election in 2007; and see section 9(9) of the Government of Wales Act 2006 in relation to any subsequent Assembly general election.

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- (iii) of the total number of votes given for each individual candidate or registered political party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers; and
- (iv) in respect of the number of votes referred to in sub-paragraph (iii), a breakdown of the number of votes given for each such candidate or party in each Assembly constituency in the Assembly electoral region.

(2) At an uncontested regional election the statement of persons nominated, in addition to showing the registered political parties and other persons standing nominated, shall also—

- (a) set out the individual candidates or the registered political parties to whom seats have been allocated (together with the names of the party list candidates who are to fill such seats); and
- (b) declare those individual or party list candidates to have been elected and returned,

and the regional returning officer shall forthwith return the names of those persons to the Clerk (and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate) in accordance with paragraph (3).

(3) For the purposes of paragraphs (1)(c) and (2) the regional returning officer shall return those names required to be returned, by—

- (a) completing a certificate in form CS set out in English and Welsh in Schedule 10, (declaring the candidate to be returned); and
- (b) delivering it, or causing it to be delivered, to the Clerk.

Return or forfeiture of deposit

65.—(1) The deposit made at an Assembly election under rule 10 shall either be—

- (a) returned to the person making it or his personal representatives, in the case of a candidate at a constituency election or an individual candidate at a regional election;
- (b) returned to the registered nominating officer of a registered political party which has submitted a party list, in the case of a regional election; or
- (c) forfeited to the Secretary of State.

(2) Except in the cases mentioned in this rule, the deposit shall be returned not later than the next day after that on which the result or results of the election are declared.

(3) For the purposes of paragraph (2)—

- (a) a day shall be disregarded if it would be disregarded under rule 2 in computing any period of time for the purposes of the timetable for the election; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) If, in the case of a constituency election, a candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded or abandoned by reason of his death, his deposit shall be returned as soon as practicable after the publication of the statement or after his death⁽⁵⁾, as the case may be.

(5) If, in the case of a regional election, an individual candidate or a registered political party is not shown as standing nominated in the statement of persons nominated, his or their deposit shall be returned as soon as practicable after publication of the statement.

(6) Subject to paragraph (4) the deposit shall be forfeited if in the case of a candidate for return as a constituency member, a poll is taken and after the counting of the votes by the constituency

(5) See also Part 6 (Death of candidate) for further provision as to the return of deposits.

returning officer (including any re-count) is completed, the candidate is found to have polled not more than one twentieth of the total number of votes polled by all candidates in the constituency.

(7) Subject to paragraph (5), the deposit shall be forfeited if, in the case of a registered political party standing nominated or an individual candidate for return as a regional member, a poll is taken and after the total number of votes given for each registered party and each individual candidate has been counted, the registered political party or individual candidate is found to have polled not more than one twentieth of the total number of votes polled by all registered political parties and individual candidates in the region.

(8) Notwithstanding anything in paragraphs (2) to (7), if at an Assembly election a person is standing nominated as—

- (a) a candidate at a constituency election; or
- (b) an individual or party list candidate at a regional election,

and by virtue of such nomination he is in breach of—

- (i) in relation to a constituency candidate, section 4(7) or section 8(7) of the 1998 Act; or
- (ii) in relation to an individual or party list candidate, section 5(5) or, as the case may be section 5(6) of the 1998 Act⁽⁶⁾,

then not more than one of the deposits shall be returned and, if necessary, the Secretary of State shall determine which it is to be.

(9) In respect of an Assembly election held after the 2007 Assembly general election, paragraph (8) shall have effect as if—

- (a) in sub-paragraph (i), the references to sections 4(7) and 8(7) of the 1998 Act were respectively a reference to sections 7(1) and 10(9) of the 2006 Act; and
- (b) in sub-paragraph (ii), the references to section 5(5) and section 5(6) of the 1998 Act, were respectively a reference to section 7(5) and section 7(6) of the 2006 Act.

⁽⁶⁾ Section 5(5) and (6) of the Government of Wales Act is amended by paragraph 5 of Schedule 11 to the Government of Wales Act 2006.